S.B. CIVIL WRIT PETITION NO.3450/2006.

(DR. GOVIND SINGH GAHLOT VS. STATE & ORS.)

DATE OF ORDER : 23.07.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. M.S. Singhvi for the petitioner.
Mr. Rameshwar Dave, Dy. Government Advocate.
Mr. P.C.Sharma for the respondents.

While acquiring 9.14 bighas of agricultural land under tenancy of the petitioner, the Government of Rajasthan by a Notification dated 04.01.1988 exercising powers under Section 48 of the Land Acquisition Act, 1894, released 2 bighas of land from acquisition. Accordingly, 7.14 bighas of land was acquired and remaining 2 bighas of land was identified and kept under petitioner's possession. The land aforesaid was converted as urban land and a lease for 99 years was issued in favour of the petitioner by the authority competent. Somewhere in the month of February/March, 2005, the Patwari of the area informed the petitioner that the land retained by him includes some part of Government land. The petitioner, thereafter, submitted a detailed representation to the Collector, Sirohi stating therein that whatever land retained by him was identified and measured by the competent authorities and as such, he was neither having land in excess nor was having possession over the Government land.

The Collector, Sirohi examined the matter in detailed and found that the land covered under the lease granted and in possession of the petitioner was partly a Government land falling in Khasra No.989, but in any case, was not more than 2 bighas of land, that was released in pursuant to the Notification dated 04.01.1988. The Collector, Sirohi made a recommendation for regularizing possession of the petitioner on the land under his possession. No action since there is taken by the respondent State.

The grievance of the petitioner is that though he is not having possession over the land beyond 2 bighas, the respondents are not permitting him to raise any construction on the land in question. He is also apprehending his dispossession from the land that is said to be the Government land, hence, This petitioner for writ is preferred seeking a direction to restrain the respondent-State from interfering with possession of the petitioner over the land in question.

There is no dispute between the parties about the fact that while acquiring the land under tenancy of the petitioner, 2 bighas of land was released and a lease was granted for that. According to the respondents, though the 2 bighas of land was allowed to be retained with the petitioner, but some part of it is

Government land and, therefore, the petitioner must withdraw his possession over that.

Heard counsel for the parties.

The petitioner as a consequent to Notification dated 04.01.1988 was allowed to retain 2 bighas of land with him and a patta for that was also granted by the competent authority. The land in question was also identified by the respondents. It appears that due to some error, while identifying the land, some part of Government land was allowed to be retained with the petitioner.

Be that as it may, it is not in dispute that the petitioner is entitled to have possession over 2 bighas of land relating to which the respondents granted lease in his favour. A totality of the facts and circumstances of the case warrants that the land possessed by the petitioner up to the limit of 2 bighas be regularized and a revised patta be issued in that regard.

Accordingly, this petition for writ is disposed of with a direction to the respondents except respondent No.4 to regularize possession of the petitioner over the land in question to the extent of 2 bighas by issuing a revised patta. It is made

clear that if the petitioner is found having possession over the land beyond 2 bighas, then the excess government land may be taken over by the respondents.

(GOVIND MATHUR)J.

Anil/